

Regular Meeting

Agenda Item #	4
Meeting Date	July 12, 2004
Prepared By	Susan Silber, City Attorney
Approved By	

Discussion Item	Resolution on Same Sex Marriages
Background	<p>A lawsuit concerning same-sex marriage in Maryland was just filed in Circuit Court. Courts in several states (e.g., Massachusetts, Vermont, New Jersey, Hawaii) have been considering the constitutional question. Massachusetts and certain other foreign governments have recognized same-sex marriage (<i>e.g.</i> the Canadian provinces of Ontario, Quebec and British Columbia, as well as the Netherlands and Belgium).</p> <p>A proposal to amend the U.S. Constitution is pending in Congress. Takoma Park has a commitment to nondiscrimination in the treatment of its personnel on the basis of sexual orientation in its Charter and laws.</p>
Policy	City is committed to non-discrimination
Fiscal Impact	None
Attachments	Resolution
Recommendation	Consider adoption of the resolution
Special Consideration	

Introduced By:

Resolution Date:

RESOLUTION NO. 2004-____

(Supporting same-sex marriage in Maryland, committing to municipal recognition of out of state same-sex marriages, educating the public, and calling upon all public and private entities to give legal recognition to such marriages)

WHEREAS, marriage is one of the fundamental elements of individual liberty; and

WHEREAS, the institution of marriage serves as one of the building blocks of society, strengthening and stabilizing relationships between individuals; and

WHEREAS, the institution of marriage provides benefits to society through a system of laws that regulate inheritance, the provision of benefits from government and private programs, the provision of medical care to persons who are not able to make their own medical decisions, and responsibility for financial obligations, among other areas; and

WHEREAS, extending the institution of marriage to same-sex couples gives entities such as the courts, government and private programs, medical institutions, banks, and others the benefits of using the established legal structure that surrounds marriage in serving same-sex couples; and

WHEREAS, the opportunity to commit publicly and legally to share one's life with a person of one's choice is a central aspect of the human experience, and denial of marriage to same-sex couples is a denial of fundamental civil rights; and

WHEREAS, the City of Takoma Park understands that marriage develops from a couple's desire for love, security, and family, and that such desires is not confined to the heterosexual population; and

WHEREAS, same-sex marriage, as any other marriage, provides family stability and personal happiness to gay and lesbian couples, their children, and their extended families; and

WHEREAS, contemporary studies find no support for a concern that the children of lesbian and gay parents are harmed by the sexual orientation of their parents; and our experience in Takoma Park confirms the conclusion that the children of gay and lesbian parents are thriving as well as other children in our community; and

WHEREAS, the United States Constitution clearly states that no laws will be made depriving any person of life, liberty or property without due process of law; and

WHEREAS, the United States Constitution states that no person within its jurisdiction will be denied equal protection of the laws; and

WHEREAS, all amendments to the United States Constitution heretofore either clarified or expanded the nation's vision of equality, liberty, and the pursuit of happiness; and WHEREAS the equal protection provision of the Maryland Constitution Declaration of Rights prohibits gender-based classifications and the basic principle of Maryland's Equal Rights Amendment is that sex is not a permissible factor in determining the legal rights of women, or men, so that the treatment of any person may not be based upon the circumstance that such person or their spouse is of one sex or the other; and

WHEREAS, the freedom of religion provision of the Maryland Constitution Declaration of Rights states that all persons are equally entitled to protection in their religious liberty and that denying the validity of a same-sex religious commitment ceremony violates the same-sex couple's freedom of religion rights; and

WHEREAS, the State of Maryland has not adopted a Defense of Marriage Act; and

WHEREAS, discriminatory laws result, especially, in significant harm to lesbian, gay, bisexual and transgendered people by perpetuating homophobia, just as anti-miscegenation laws barring people of different races from marrying perpetuated racism and social ostracism; and

WHEREAS, denying civil marriage to lesbian and gay couples would deprive thousands of people of certain rights, privileges, immunities, protections, and responsibilities; and

WHEREAS, discriminatory marriage laws undermine the United States' and State of Maryland's

constitutional commitment to equality, privacy and justice for all of its citizens; and

WHEREAS, the City of Takoma Park has by local practice, policy, and ordinance shown its commitment to fair and equitable treatment of all and by affording equal rights and benefits to the numerous gay and lesbian couples residing in the City, has consistently been striving to set an example of excellence in the non-discriminatory treatment of all persons and the promotion of the ideal of diversity; and

WHEREAS, the City of Takoma Park wants to educate the public, as well as the private and governmental entities on the value and legality of same-sex marriages; and

WHEREAS, the City of Takoma Park finds any attempt to codify discrimination into the United States Constitution repugnant and anathema to the tradition of equality that we as a people hold dear; and

WHEREAS, the City of Takoma Park opposes the proposal for a Constitutional Amendment to ban same-sex marriage because the United States Constitution is no place for discrimination against citizens; and

WHEREAS, the City of Takoma Park finds that a fundamental truth was established that governmental oppression of any kind based on discrimination diminishes us as human beings, so the United States Constitution was designed and written to protect the rights of the minority from the tyranny of the majority; and

WHEREAS, the City of Takoma Park calls upon the State of Maryland and its county governments to legalize same-sex marriages and to issue such marriage licenses; and

WHEREAS, the City of Takoma Park calls upon public entities and private entities, particularly including insurance companies and other benefit providers, to recognize same-sex marriages as lawful and desirable; and

WHEREAS, the City of Takoma Park urges the repeal of the federal Defense of Marriage Act, which restricts marriage to a union between a man and a woman.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY OF TAKOMA PARK, MARYLAND THAT the concept of same-sex marriage is hereby supported both in public law and in private practice; and

BE IT FURTHER RESOLVED THAT the City will give full recognition up to the limits of its legal authority to out-of-state and foreign same-sex marriages; and

BE IT FURTHER RESOLVED THAT the City will direct its energies to a public campaign of education about equality in marriage. The City will use its resources to coordinate activities among other local governments and private enterprises in furtherance of its educational campaign; and

BE IT FURTHER RESOLVED THAT the City Clerk shall transmit certified copies of this Resolution to federal, state, county and local officials, as well as the press.

THIS RESOLUTION IS ADOPTED THIS _____ DAY OF _____, 2004.